

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 829

Introduced by Assembly Member Caballero

February 26, 2009

~~An act relating to taxation.~~ *An act to add Section 6377 to, and to add and repeal Sections 17053.91 and 23649.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 829, as amended, Caballero. ~~Sales and use taxes: exemption: manufacturing equipment.~~ *Sales and use tax: personal and corporate income tax: manufacturers' credit and exemption.*

(1) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by that law.

This bill would exempt from a specified portion of those taxes, for calendar years beginning on or after January 1, 2013, the gross receipts from the sale of, and the storage, use, or other consumption of, sustainable development equipment investments of tangible personal property purchased for use by a qualified person to be used in manufacturing or other processes, as specified, and tangible personal property purchased by a qualified person and used primarily during the research and development process for qualified research, as defined.

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

(2) *The Personal Income Tax Law and the Corporation Tax Law authorizes various credits against the taxes imposed by those laws.*

This bill would allow a credit in amount equal to a specified portion of the amount of sales tax reimbursement paid to a retailer or use tax paid on a purchase of tangible personal property with respect to taxes paid on transactions occurring between January 1, 2010, and January 1, 2013, that are imposed under the Sales and Use Tax Law for the sale of, or the storage, use, or other consumption in this state of, tangible personal property purchased for use by a qualified person in manufacturing, processing, refining, fabricating, or recycling of property, tangible personal property purchased for use by a contractor for a specified purpose, sustainable development equipment investments of tangible personal property purchased for specified use, and tangible personal property used, but not consumed, primarily during the research and development process for qualified research, as defined. The credit would be applied in equal amounts over three successive taxable years beginning with the first taxable year beginning on or after January 1, 2013.

(3) *This bill would take effect immediately as a tax levy.*

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, and on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by that law.~~

~~This bill would declare the intent of the Legislature to exempt from those taxes the sale of, and the storage, use, or other consumption of, manufacturing equipment used in the manufacturing process, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature to enact a*
- 2 *competitive tax policy for manufacturers by providing for partial*
- 3 *exemptions from state sales and use taxes for the sale of and the*
- 4 *storage, use, or other consumption of specified manufacturing*
- 5 *equipment and for sustainable manufacturing and research and*

1 *development equipment investments used in the manufacturing*
2 *process.*

3 *SEC. 2. Section 6377 is added to the Revenue and Taxation*
4 *Code, to read:*

5 *6377. On and after January 1, 2013, there are exempted from*
6 *the taxes imposed by this part the gross receipts from the sale of,*
7 *and the storage, use, or other consumption in this state of, all of*
8 *the following:*

9 *(1) Tangible personal property purchased by a qualified person*
10 *for use primarily in any stage of the manufacturing, processing,*
11 *refining, fabricating, or recycling of property, beginning at the*
12 *point any raw materials are received by the qualified person and*
13 *introduced into the process and ending at the point at which the*
14 *manufacturing, processing, refining, fabricating, or recycling has*
15 *altered property to its completed form, including packaging, if*
16 *required.*

17 *(2) Tangible personal property purchased for use by a*
18 *contractor purchasing that property for use in the performance of*
19 *a construction contract for the qualified person who will use the*
20 *property as an integral part of the manufacturing, processing,*
21 *refining, fabricating, or recycling process, or as a storage facility*
22 *for use in connection with the manufacturing process.*

23 *(3) Sustainable development equipment investments of tangible*
24 *personal property purchased by a qualified person for use*
25 *primarily in any stage of the manufacturing, processing, refining,*
26 *fabricating, or recycling of property beginning at the point any*
27 *raw materials are received by the qualified person and introduced*
28 *into the process and ending at the point at which the*
29 *manufacturing, processing, refining, fabricating, or recycling has*
30 *altered property to its completed form, including packaging, if*
31 *required.*

32 *(4) Tangible personal property used primarily during the*
33 *research and development process on qualified research.*

34 *(b) For purposes of this section:*

35 *(1) "Fabricating" means to make, build, create, produce, or*
36 *assemble components or property to work in a new or different*
37 *manner.*

38 *(2) "Manufacturing" means the activity of converting or*
39 *conditioning property by changing the form, composition, quality,*
40 *or character of the property for ultimate sale at retail or use in*

1 *the manufacturing of a product to be ultimately sold at retail.*
2 *Manufacturing includes any improvements to tangible personal*
3 *property that result in a greater service life or greater functionality*
4 *than that of the original property.*

5 (3) *“Primarily” means tangible personal property used 50*
6 *percent or more of the time in an activity described in subdivision*
7 *(a).*

8 (4) *“Process” means the period beginning at the point at which*
9 *any raw materials are received by the qualified taxpayer and*
10 *introduced into the manufacturing, processing, refining,*
11 *fabricating, or recycling activity of the qualified taxpayer and*
12 *ending at the point at which the manufacturing, processing,*
13 *refining, fabricating, or recycling activity of the qualified person*
14 *has altered tangible personal property to its completed form,*
15 *including packaging, if required. Raw materials shall be considered*
16 *to have been introduced into the process when the raw materials*
17 *are stored on the same premises where the qualified person’s*
18 *manufacturing, processing, refining, or recycling activity is*
19 *conducted. Raw materials that are stored on premises other than*
20 *where the qualified person’s manufacturing, processing, refining,*
21 *fabricating, or recycling activity is conducted, shall not be*
22 *considered to have been introduced into the manufacturing,*
23 *processing, refining, fabricating, or recycling process.*

24 (5) *“Processing” means the physical application of the materials*
25 *and labor necessary to modify or change the characteristics of*
26 *property.*

27 (6) *“Qualified person” means either of the following:*

28 (A) *A person who is engaged in those lines of business described*
29 *in Codes 3111 to 3399, inclusive, or 5112 of the North American*
30 *Industrial Classification System (NAICS) published by the United*
31 *States Office of Management and Budget (OMB), 2002 edition.*

32 (B) *An affiliate of a person described in subparagraph (A)*
33 *provided that the affiliate is a member of the qualified person’s*
34 *unitary group for which a combined report is required to be filed*
35 *under Article 1 (commencing with Section 25101) of Chapter 17*
36 *of Part 11.*

37 (7) *“Qualified research” means research that meets the*
38 *requirements of Section 174 of the Internal Revenue Code.*

39 (8) *“Refining” means the process of converting a natural*
40 *resource to an intermediate or finished product.*

1 (9) “Sustainable development equipment” means qualified
2 manufacturing or research and development equipment that meets
3 any of the following:

4 (A) Is consistent with meeting the goals and objectives of
5 compliance with greenhouse gas emissions standards as set forth
6 in Division 25.5 (commencing with Section 38500) of the Health
7 and Safety Code.

8 (B) Promotes the reduction of wasteful, inefficient, unnecessary,
9 or uneconomic uses of energy.

10 (C) Encourages the utilization of cost-effective water use
11 efficiency practices to curtail the waste of water and to ensure that
12 water use does not exceed reasonable needs.

13 (D) Promotes the utilization of recycled or reusable materials
14 in the manufacturing process.

15 (10) “Tangible personal property” includes, but is not limited
16 to, all of the following:

17 (A) Machinery and equipment, including component parts and
18 contrivances such as belts, shafts, moving parts, and operating
19 structures.

20 (B) Equipment or devices used or required to operate, control,
21 regulate, or maintain the machinery and equipment, including,
22 without limitation, computers, data processing equipment, and
23 computer software, together with all repair and replacement parts
24 with a useful life of one or more years, whether purchased
25 separately or in conjunction with a complete machine and
26 regardless of whether the machine or component parts are
27 assembled by the qualified person or another party.

28 (C) Property used in pollution control that meets standards
29 established by this state or any local or regional governmental
30 agency within this state.

31 (D) Special purpose buildings and foundations used as an
32 integral part of the manufacturing, processing, refining, or
33 fabricating process, or that constitute a research or storage facility
34 used during the manufacturing process.

35 (E) Fuels used or consumed in the manufacturing process.

36 (11) “Tangible personal property” does not include any of the
37 following:

38 (A) Consumables with a normal useful life of less than one year,
39 except as provided in subparagraph (E) of paragraph (10).

1 (B) Furniture, inventory, and equipment used in the extraction
2 process, or equipment used to store finished products that have
3 completed the manufacturing process.

4 (C) Buildings or components of buildings used solely for
5 warehousing purposes after completion of the manufacturing
6 process.

7 (D) Tangible personal property used primarily in administration,
8 general management, or marketing.

9 (c) No exemption shall be allowed under this section unless the
10 purchaser furnishes the retailer with an exemption certificate,
11 completed in accordance with any instructions or regulations as
12 the board may prescribe.

13 (d) Notwithstanding any provision of the Bradley-Burns Uniform
14 Local Sales and Use Tax Law (Part 1.5 (commencing with Section
15 7200)) or the Transactions and Use Tax Law (Part 1.6
16 (commencing with Section 7251)), the exemption established by
17 this section shall not apply with respect to any tax levied by a
18 county, city, or district pursuant to, or in accordance with, either
19 of those laws.

20 (e) (1) Notwithstanding subdivision (a), the exemption provided
21 by this section shall not apply to any sale or use of property that,
22 within one year from the date of purchase, is either removed from
23 California, converted from an exempt use under subdivision (a)
24 to some other use not qualifying for the exemption, or used in a
25 manner not qualifying for the exemption.

26 (2) Notwithstanding subdivision (a), the exemption established
27 by paragraphs (1) and (2) of subdivision (a) shall not apply with
28 respect to any tax levied pursuant to Sections 6051.2, 6051.5,
29 6051.7, 6201.2, 6201.5, or 6201.7 or pursuant to Section 35 of
30 Article XIII of the California Constitution.

31 (3) Notwithstanding subdivision (a), the exemption established
32 by paragraphs (3) and (4) of subdivision (a) shall not apply with
33 respect to any tax levied pursuant to Section 6051.2, 6051.5,
34 6201.2, or 6201.5 or pursuant to Section 35 of Article XIII of the
35 California Constitution.

36 (f) If a purchaser certifies in writing to the seller that the
37 property purchased without payment of the tax will be used in a
38 manner entitling the seller to regard the gross receipts from the
39 sale as exempt from the sales tax, and within one year from the
40 date of purchase, the purchaser (1) removes that property outside

1 *California, (2) converts that property for use in a manner not*
2 *qualifying for the exemption, or (3) uses that property in a manner*
3 *not qualifying for the exemption, the purchaser shall be liable for*
4 *payment of sales tax, with applicable interest, as if the purchaser*
5 *were a retailer making a retail sale of the property at the time the*
6 *property is so removed, converted, or used, and the sales price of*
7 *the property to the purchaser shall be deemed the gross receipts*
8 *from that retail sale.*

9 *SEC. 3. Section 17053.91 is added to the Revenue and Taxation*
10 *Code, to read:*

11 *17053.91. (a) (1) There shall be allowed to a qualified person*
12 *as a credit against the "net tax" as defined in Section 17039, an*
13 *amount equal to that portion of sales tax reimbursement paid to*
14 *a retailer or use tax paid on a purchase of tangible personal*
15 *property that is placed in service in this state, equal to 5 percent*
16 *of the gross receipts or sales price on transactions described in*
17 *subparagraphs (A) and (B), occurring between January 1, 2010,*
18 *and January 1, 2013, that are subject to tax under Part 1*
19 *(commencing with Section 6351) of Division 2.*

20 *(A) Tangible personal property is purchased by a qualified*
21 *person for use primarily in any stage of the manufacturing,*
22 *processing, refining, fabricating, or recycling of property,*
23 *beginning at the point any raw materials are received by the*
24 *qualified person and introduced into the process and ending at*
25 *the point at which the manufacturing, processing, refining,*
26 *fabricating, or recycling has altered property to its completed*
27 *form, including packaging, if required.*

28 *(B) Tangible personal property is purchased for use by a*
29 *contractor purchasing that property for use in the performance of*
30 *a construction contract for the qualified person who will use the*
31 *property as an integral part of the manufacturing, processing,*
32 *refining, fabricating, or recycling process, or as a storage facility*
33 *for use in connection with the manufacturing process.*

34 *(2) There shall be allowed to a qualified person as a credit*
35 *against the "net tax" as defined in Section 17039 an amount equal*
36 *to that portion of sales tax reimbursement paid to a retailer or use*
37 *tax paid on a purchase of tangible personal property that is placed*
38 *in service in this state, equal to 6 percent of the gross receipts or*
39 *sales price on transactions described in subparagraphs (A) and*
40 *(B), occurring between January 1, 2010, and January 1, 2013,*

1 *that are subject to tax under Part 1 (commencing with Section*
2 *6351) of Division 2.*

3 *(A) Sustainable development equipment investments of tangible*
4 *personal property is purchased by a qualified person for use*
5 *primarily in any stage of the manufacturing, processing, refining,*
6 *fabricating, or recycling of property beginning at the point any*
7 *raw materials are received by the qualified person and introduced*
8 *into the process and ending at the point at which the*
9 *manufacturing, processing, refining, fabricating, or recycling has*
10 *altered property to its completed form, including packaging, if*
11 *required.*

12 *(B) Tangible personal property is purchased by a qualified*
13 *person and used primarily during the research and development*
14 *process on qualified research.*

15 *(b) The amount of any credit allowed under subdivision (a) shall*
16 *be applied in equal amounts over three successive taxable years*
17 *beginning with the first taxable year beginning on or after January*
18 *1, 2013.*

19 *(c) For purposes of this section:*

20 *(1) "Fabricating" means to make, build, create, produce, or*
21 *assemble components or property to work in a new or different*
22 *manner.*

23 *(2) "Manufacturing" means the activity of converting or*
24 *conditioning property by changing the form, composition, quality,*
25 *or character of the property for ultimate sale at retail or use in*
26 *the manufacturing of a product to be ultimately sold at retail.*
27 *Manufacturing includes any improvements to tangible personal*
28 *property that result in a greater service life or greater functionality*
29 *than that of the original property.*

30 *(3) "Primarily" means tangible personal property used 50*
31 *percent or more of the time in an activity described in subdivision*
32 *(a).*

33 *(4) "Process" means the period beginning at the point at which*
34 *any raw materials are received by the qualified person and*
35 *introduced into the manufacturing, processing, refining,*
36 *fabricating, or recycling activity of the qualified person and ending*
37 *at the point at which the manufacturing, processing, refining,*
38 *fabricating, or recycling activity of the qualified person has altered*
39 *tangible personal property to its completed form, including*
40 *packaging, if required. Raw materials shall be considered to have*

1 *been introduced into the process when the raw materials are stored*
2 *on the same premises where the qualified person's manufacturing,*
3 *processing, refining, or recycling activity is conducted. Raw*
4 *materials that are stored on premises other than where the*
5 *qualified person's manufacturing, processing, refining, fabricating,*
6 *or recycling activity is conducted, shall not be considered to have*
7 *been introduced into the manufacturing, processing, refining,*
8 *fabricating, or recycling process.*

9 (5) "Processing" means the physical application of the materials
10 and labor necessary to modify or change the characteristics of
11 property.

12 (6) "Qualified person" means either of the following:

13 (A) A person who is engaged in those lines of business described
14 in Codes 3111 to 3399, inclusive, or 5112 of the North American
15 Industrial Classification System (NAICS) published by the United
16 States Office of Management and Budget (OMB), 2002 edition.

17 (B) An affiliate of a person described in subparagraph (A)
18 provided that the affiliate is a member of the qualified person's
19 unitary group for which a combined report is required to be filed
20 under Article 1 (commencing with Section 25101) of Chapter 17
21 of Part 11.

22 (7) "Qualified research" means research that meets the
23 requirements of Section 174 of the Internal Revenue Code.

24 (8) "Refining" means the process of converting a natural
25 resource to an intermediate or finished product.

26 (9) "Sustainable development equipment" means qualified
27 manufacturing or research and development equipment that meets
28 any of the following:

29 (A) Is consistent with meeting the goals and objectives of
30 compliance with greenhouse gas emissions standards as set forth
31 in Division 25.5 (commencing with Section 38500) of the Health
32 and Safety Code.

33 (B) Promotes the reduction of wasteful, inefficient, unnecessary,
34 or uneconomic uses of energy.

35 (C) Encourages the utilization of cost-effective water use
36 efficiency practices to curtail the waste of water and to ensure that
37 water use does not exceed reasonable needs.

38 (D) Promotes the utilization of recycled or reusable materials
39 in the manufacturing process.

1 (10) “Tangible personal property” includes, but is not limited
2 to, all of the following:

3 (A) Machinery and equipment, including component parts and
4 contrivances such as belts, shafts, moving parts, and operating
5 structures.

6 (B) Equipment or devices used or required to operate, control,
7 regulate, or maintain the machinery and equipment, including,
8 without limitation, computers, data processing equipment, and
9 computer software, together with all repair and replacement parts
10 with a useful life of one or more years, whether purchased
11 separately or in conjunction with a complete machine and
12 regardless of whether the machine or component parts are
13 assembled by the qualified person or another party.

14 (C) Property used in pollution control that meets standards
15 established by this state or any local or regional governmental
16 agency within this state.

17 (D) Special purpose buildings and foundations used as an
18 integral part of the manufacturing, processing, refining, or
19 fabricating process, or that constitute a research or storage facility
20 used during the manufacturing process.

21 (E) Fuels used or consumed in the manufacturing process.

22 (11) “Tangible personal property” does not include any of the
23 following:

24 (A) Consumables with a normal useful life of less than one year,
25 except as provided in subparagraph (E) of paragraph (10).

26 (B) Furniture, inventory, and equipment used in the extraction
27 process, or equipment used to store finished products that have
28 completed the manufacturing process.

29 (C) Buildings or components of buildings used solely for
30 warehousing purposes after completion of the manufacturing
31 process.

32 (D) Property that is used primarily in administration, general
33 management, or marketing.

34 (E) Property that, within one year from the date of purchase,
35 is either removed from California, converted from a use described
36 in subdivision (a) to some other use not described in subdivision
37 (a), or used in a manner not described in subdivision (a).

38 (d) In the case where the credit otherwise allowed under this
39 section exceeds the “net tax” for the taxable year, that portion of
40 the credit that exceeds the “net tax” may be carried over to reduce

1 *the net tax in the following taxable year, and the succeeding four*
2 *taxable years if necessary, until the credit is exhausted.*

3 *(e) This section shall remain in effect only until December 1,*
4 *2016, and as of that date is repealed.*

5 *SEC. 4. Section 23649.1 is added to the Revenue and Taxation*
6 *Code, to read:*

7 *23649.1. (a) (1) There shall be allowed to a qualified person*
8 *as a credit against the "tax" as defined in Section 23036, an*
9 *amount equal to that portion of sales tax reimbursement paid to*
10 *a retailer or use tax paid on a purchase of tangible personal*
11 *property that is placed in service in this state equal to 6 percent*
12 *of the gross receipts or sales price on transactions described in*
13 *subparagraphs (A) and (B) occurring between January 1, 2010,*
14 *and January 1, 2013, that are subject to tax under Part 1*
15 *(commencing with Section 6351) of Division 2.*

16 *(A) Tangible personal property is purchased by a qualified*
17 *person for use primarily in any stage of the manufacturing,*
18 *processing, refining, fabricating, or recycling of property,*
19 *beginning at the point any raw materials are received by the*
20 *qualified person and introduced into the process and ending at*
21 *the point at which the manufacturing, processing, refining,*
22 *fabricating, or recycling has altered property to its completed*
23 *form, including packaging, if required.*

24 *(B) Tangible personal property is purchased for use by a*
25 *contractor purchasing that property for use in the performance of*
26 *a construction contract for the qualified person who will use the*
27 *property as an integral part of the manufacturing, processing,*
28 *refining, fabricating, or recycling process, or as a storage facility*
29 *for use in connection with the manufacturing process.*

30 *(2) There shall be allowed to a qualified person as a credit*
31 *against the "tax" as defined in Section 23036, and amount equal*
32 *to that portion of sales tax reimbursement paid to a retailer or use*
33 *tax on a purchase of tangible personal property that is placed in*
34 *service in this state, equal to 5 percent of the gross receipts or*
35 *sales price on transactions occurring between January 1, 2010,*
36 *and January 1, 2013, that are subject to tax under Part 1*
37 *(commencing with Section 6351) of Division 2.*

38 *(A) Sustainable development equipment investments of tangible*
39 *personal property purchased by a qualified person for use*
40 *primarily in any stage of the manufacturing, processing, refining,*

1 *fabricating, or recycling of property beginning at the point any*
2 *raw materials are received by the qualified person and introduced*
3 *into the process and ending at the point at which the*
4 *manufacturing, processing, refining, fabricating, or recycling has*
5 *altered property to its completed form, including packaging, if*
6 *required.*

7 *(B) Tangible personal property is purchased by a qualified*
8 *person and used primarily during the research and development*
9 *process on qualified research.*

10 *(b) The amount of any credit allowed under subdivision (a) shall*
11 *be applied in equal amounts over three successive taxable years*
12 *beginning with the first taxable year beginning on or after January*
13 *1, 2013.*

14 *(c) For purposes of this section:*

15 *(1) "Fabricating" means to make, build, create, produce, or*
16 *assemble components or property to work in a new or different*
17 *manner.*

18 *(2) "Manufacturing" means the activity of converting or*
19 *conditioning property by changing the form, composition, quality,*
20 *or character of the property for ultimate sale at retail or use in*
21 *the manufacturing of a product to be ultimately sold at retail.*
22 *Manufacturing includes any improvements to tangible personal*
23 *property that result in a greater service life or greater functionality*
24 *than that of the original property.*

25 *(3) "Primarily" means tangible personal property used 50*
26 *percent or more of the time in an activity described in subdivision*
27 *(a).*

28 *(4) "Process" means the period beginning at the point at which*
29 *any raw materials are received by the qualified person and*
30 *introduced into the manufacturing, processing, refining,*
31 *fabricating, or recycling activity of the qualified person and ending*
32 *at the point at which the manufacturing, processing, refining,*
33 *fabricating, or recycling activity of the qualified person has altered*
34 *tangible personal property to its completed form, including*
35 *packaging, if required. Raw materials shall be considered to have*
36 *been introduced into the process when the raw materials are stored*
37 *on the same premises where the qualified person's manufacturing,*
38 *processing, refining, or recycling activity is conducted. Raw*
39 *materials that are stored on premises other than where the*
40 *qualified person's manufacturing, processing, refining, fabricating,*

1 *or recycling activity is conducted, shall not be considered to have*
2 *been introduced into the manufacturing, processing, refining,*
3 *fabricating, or recycling process.*

4 (5) *“Processing” means the physical application of the materials*
5 *and labor necessary to modify or change the characteristics of*
6 *property.*

7 (6) *“Qualified person” means either of the following:*

8 (A) *A person who is engaged in those lines of business described*
9 *in Codes 3111 to 3399, inclusive, or 5112 of the North American*
10 *Industrial Classification System (NAICS) published by the United*
11 *States Office of Management and Budget (OMB), 2002 edition.*

12 (B) *An affiliate of a person described in subparagraph (A)*
13 *provided that the affiliate is a member of the qualified person’s*
14 *unitary group for which a combined report is required to be filed*
15 *under Article 1 (commencing with Section 25101) of Chapter 17*
16 *of Part 11.*

17 (7) *“Qualified research” means research that meets the*
18 *requirements of Section 174 of the Internal Revenue Code.*

19 (8) *“Refining” means the process of converting a natural*
20 *resource to an intermediate or finished product.*

21 (9) *“Sustainable development equipment” means qualified*
22 *manufacturing or research and development equipment that meets*
23 *any of the following:*

24 (A) *Is consistent with meeting the goals and objectives of*
25 *compliance with greenhouse gas emissions standards as set forth*
26 *in Division 25.5 (commencing with Section 38500) of the Health*
27 *and Safety Code.*

28 (B) *Promotes the reduction of wasteful, inefficient, unnecessary,*
29 *or uneconomic uses of energy.*

30 (C) *Encourages the utilization of cost-effective water use*
31 *efficiency practices to curtail the waste of water and to ensure that*
32 *water use does not exceed reasonable needs.*

33 (D) *Promotes the utilization of recycled or reusable materials*
34 *in the manufacturing process.*

35 (10) *“Tangible personal property” includes, but is not limited*
36 *to, all of the following:*

37 (A) *Machinery and equipment, including component parts and*
38 *contrivances such as belts, shafts, moving parts, and operating*
39 *structures.*

1 (B) *Equipment or devices used or required to operate, control,*
2 *regulate, or maintain the machinery and equipment, including,*
3 *without limitation, computers, data processing equipment, and*
4 *computer software, together with all repair and replacement parts*
5 *with a useful life of one or more years, whether purchased*
6 *separately or in conjunction with a complete machine and*
7 *regardless of whether the machine or component parts are*
8 *assembled by the qualified person or another party.*

9 (C) *Property used in pollution control that meets standards*
10 *established by this state or any local or regional governmental*
11 *agency within this state.*

12 (D) *Special purpose buildings and foundations used as an*
13 *integral part of the manufacturing, processing, refining, or*
14 *fabricating process, or that constitute a research or storage facility*
15 *used during the manufacturing process.*

16 (E) *Fuels used or consumed in the manufacturing process.*

17 (11) *“Tangible personal property” does not include any of the*
18 *following:*

19 (A) *Consumables with a normal useful life of less than one year,*
20 *except as provided in subparagraph (E) of paragraph (10).*

21 (B) *Furniture, inventory, and equipment used in the extraction*
22 *process, or equipment used to store finished products that have*
23 *completed the manufacturing process.*

24 (C) *Buildings or components of buildings used solely for*
25 *warehousing purposes after completion of the manufacturing*
26 *process.*

27 (D) *Personal property that is used primarily in administration,*
28 *general management, or marketing.*

29 (E) *Property that, within one year from the date of purchase,*
30 *is either removed from California, converted from a use described*
31 *in subdivision (a), to some other use not described in subdivision*
32 *(a), or used in a manner not described in subdivision (a) or (b).*

33 (d) *In the case where the credit otherwise allowed under this*
34 *section exceeds the “tax” for the taxable year, that portion of the*
35 *credit that exceeds the “tax” may be carried over to reduce the*
36 *tax in the following taxable year, and the succeeding four taxable*
37 *years if necessary, until the credit is exhausted.*

38 (e) *This section shall remain in effect only until December 1,*
39 *2016, and as of that date is repealed.*

1 *SEC. 5. This act provides for a tax levy within the meaning of*
2 *Article IV of the Constitution and shall go into immediate effect.*

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation that would exempt from specified state sales and use~~
5 ~~taxes, the sale to, or use by, a manufacturer of tangible personal~~
6 ~~property purchased for use in manufacturing or otherwise~~
7 ~~processing property, or by a contractor performing a construction~~
8 ~~contract for the manufacturer, or by a person purchasing the~~
9 ~~property to use during the research and development process on~~
10 ~~qualified research. It is further the intent of the Legislature to~~
11 ~~require taxpayers with annual revenues of more than one million~~
12 ~~dollars (\$1,000,000) to postpone the benefits of the exemption~~
13 ~~until the first fiscal year in which the state budget deficit is~~
14 ~~eliminated or a specified date.~~